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CLERK U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
CANTONUNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE:)	CHAPTER 7
)	
ADA KEE METCALF,)	CASE NO. 08-60258
)	
Debtor.)	JUDGE RUSS KENDIG
)	
)	
)	MEMORANDUM OF OPINION
)	(NOT INTENDED FOR
)	PUBLICATION)

This matter is before the court on Debtor's Application to Proceed *In Forma Pauperis* (hereafter "application") filed on February 4, 2008. The court issued a preliminary order on February 6, 2008 and Debtor filed the requested documents on March 5, 2008 in support of the application.

Following passage of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, debtors are permitted to seek a waiver of the bankruptcy filing fee. Pursuant to 28 U.S.C. § 1930(f), a "bankruptcy court may waive the filing fee . . . if the court determines that such individual has less than 150 percent of the income official poverty line . . . applicable to a family of the size involved and is unable to pay that fee in installments." By the terms of the statute, a court's ability to waive the fee is permissive, not mandatory ("may waive"), and is premised upon a finding that a debtor meets the income and inability to pay in installments criteria.

The court will first determine whether Debtors' income is 150 percent of the poverty level. According to the Department of Health and Human Services 2008 Poverty Level Guidelines, available at <http://aspe.hhs.gov/poverty/08poverty.shtml>, the poverty income for a family of one is \$10,400.00. At 150 percent of poverty, the poverty income for this family is \$15,600.00 annually, or \$1,300.00 per month.

According to the application, Debtor's total monthly combined income is \$692.00 per month in social security benefits. Schedule I comports with this information. Further, Debtor attested that social security has been her only source of income since 1992. Based upon the information provided by Debtor, the court finds that she earns less than 150% of the poverty income and has established the first prong of the test.

Next, the court must determine if Debtor has the ability to pay the filing fee in installments. The budget set forth in Schedule J shows a monthly surplus of only \$21.30 per month. The expenses listed are extremely modest to the point of bordering on unreasonably low. Further, common expenses are noticeably absent: there are no

itemizations for a cell phone, medical or dental expenses, recreation, or car repairs and/or maintenance. Upon review of Debtor's expenses, the court finds that the Debtor does not have the ability to pay the filing fee in installments and has satisfied the second prong of the test.

In light of the above, the Court hereby **GRANTS** Debtor's application to waive the filing fee.

An order in accordance with this decision shall be issued immediately.

/s/ Russ Kendig

RUSS KENDIG
U.S. BANKRUPTCY JUDGE

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